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55051UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
HECTOR MANUEL MOLDES et al., :  
:   
Plaintiffs, : 04 Civ. 6137 (TPG)  
- against - :  
:   
THE REPUBLIC OF ARGENTINA, :   
:   
Defendant. :  
:  
-----x

**OPINION**

Plaintiffs are the beneficial owners of certain bond indebtedness issued by defendant The Republic of Argentina. The Republic defaulted on such indebtedness in December 2001 during a profound fiscal crisis. Plaintiffs are suing to recover amounts due to them as a result of the default and have moved for summary judgment. Plaintiffs also move to strike the Republic's discovery requests.

The motions are granted.

**FACTS**

The bond indebtedness at issue is governed by one of two agreements: (1) a Fiscal Agency Agreement dated October 19, 1994 (the "1994 FAA") and (2) an Indenture dated July 8, 1998 (the "1998 Indenture"). The 1994 FAA is the same agreement that governed the bond indebtedness on which this court granted summary judgment to the plaintiffs in Lightwater Corporation Ltd. v. Republic of Argentina, No. 02 Civ. 3804, 2003 WL 1878420 (S.D.N.Y. Apr. 14,

2003). Section 22 of the 1994 FAA and Section 113(c) of the 1998 Indenture state that the Republic waives sovereign immunity and consents to jurisdiction in any state or federal court in the borough of Manhattan in the City of New York. Both agreements provide that the Republic's obligations on the bonds are unconditional and that failure to make any payment of principal or interest for 30 days after the applicable payment date constitutes an event of default. A declaration by the Republic of a moratorium on the payment of principal or interest on its public external indebtedness is an event of default as well.

Paragraph 12 of the 1994 FAA provides for acceleration of principal if there is a failure to pay interest or a moratorium. If either of these events occurs,

each holder of Securities and such Series may by such notice in writing declare the principal amount of Securities of such Series held by it to be due and payable immediately . . . .

The 1998 Indenture permits acceleration of principal only by holders of at least 25% in aggregate of the outstanding principal amount of the bonds under each agreement.

On December 24, 2001 the Republic declared a moratorium on payments of principal and interest on the external debt of the Republic. The court refers to its previous opinions for a description of the circumstances of these defaults. Lightwater, 2003 WL 1878420, at \*2; Applestein v. Republic of Argentina, No. 02 Civ. 1773, 2003 WL 1990206, at \*1 (S.D.N.Y. Apr. 29, 2003). On August 3,

2004, plaintiffs sent notices to Bankers Trust Company, the Fiscal Agent of The Republic of Argentina, declaring the principal amounts of the debt securities governed by the 1994 FAA and held by each plaintiff to be immediately due and payable.

The bonds that are the subject of this action are listed hereafter. Also listed are the amounts of the beneficial interests owned by each plaintiff.<sup>1</sup>

The following tables contain the necessary identifying information regarding each plaintiff's beneficial interests in bonds.

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<sup>1</sup> The court notes the distinction between bonds and beneficial interests. In some previous opinions, the court has simply referred to the plaintiffs as owners of "bonds," when in fact plaintiffs are technically owners of "beneficial interests in bonds." The Republic actually issues "a bond" to a depository. The depository, in some form, issues "participations" to brokers, who sell "beneficial interests" to purchasers. These beneficial interests are identified by reference to the underlying bond (CUSIP or ISIN number or both; date of issuance and maturity; rate of interest) and the principal amount of the beneficial interest. This distinction is discussed more fully in Million Air Corp. v. Republic of Argentina, No. 04 Civ. 1048, 2005 U.S. Dist. LEXIS 23904 (S.D.N.Y. Oct. 17, 2005).

Table 1.

<u>Plaintiff Bond Holder or Beneficial Owner:</u>	Graziella Bonadiman
<u>Face Value:</u>	U.S. \$ 30,000.00
<u>CUSIP No., ISIN No., BB No.:</u>	CUSIP No. 040114GD6; ISIN No. US040114GD65
<u>Date Of Issuance:</u>	None given.
<u>Date Of Maturity:</u>	February 21, 2012
<u>Interest Rate/Payable:</u>	12.375 %
<u>Date Of Purchase:</u>	On or about February 27, 2004.
<u>Acceleration:</u>	Notice sent August 3, 2004.
<u>Contract Documents:</u> (FAA; FRB; Indenture; Offering Prospectus; Certificates, etc.)	FAA dated October 19, 1994.
<u>Evidence of Ownership Proffered:</u> (Account Statements; Letters; Notarized Statements, etc.)	- Account statement from Cassa do Ros[ar,op do Padova e Rovigo dated April 30, 2005.

Table 2.

<u>Plaintiff Bond Holder or Beneficial Owner:</u>	Carlos Alberto Bruzzone
<u>Face Value:</u>	U.S. \$ 48,000.00
<u>CUSIP No., ISIN No., BB No.:</u>	CUSIP No. 040114AR1; ISIN No. US040114AR16
<u>Date Of Issuance:</u>	January 30, 1997.
<u>Date Of Maturity:</u>	January 30, 2017.
<u>Interest Rate/Payable:</u>	11.375 %
<u>Date Of Purchase:</u>	On or about May 1999.
<u>Acceleration:</u>	Notice sent August 3, 2004.
<u>Contract Documents:</u> (FAA; Indenture; Offering Prospectus; Certificates, etc.)	FAA dated October 19, 1994.
<u>Evidence of Ownership Proffered:</u> (Account Statements; Letters; Notarized Statements, etc.)	- Account summary from Caja de Valores dated March 31, 2005.

Table 3.

<u>Plaintiff Bond Holder or Beneficial Owner:</u>	Carlos Alberto Bruzzone
<u>Face Value:</u>	U.S. \$ 68,000.00
<u>CUSIP No., ISIN No., BB No.:</u>	CUSIP No. 040114GF1; ISIN No. US040114GF14
<u>Date Of Issuance:</u>	December 19, 2001.
<u>Date Of Maturity:</u>	December 19, 2008.
<u>Interest Rate/Payable:</u>	7 %
<u>Date Of Purchase:</u>	On or about December 5, 2001.
<u>Acceleration:</u>	Notice sent August 3, 2004.
<u>Contract Documents:</u> (FAA; Indenture; Offering Prospectus; Certificates, etc.)	FAA dated October 19, 1994.
<u>Evidence of Ownership Proffered:</u> (Account Statements; Letters; Notarized Statements, etc.)	- Account summary from Caja de Valores dated March 31, 2005.

Table 4.

<u>Plaintiff Bond Holder or Beneficial Owner:</u>	Italia Camato
<u>Face Value:</u>	U.S. \$ 50,000.00
<u>CUSIP No., ISIN No., BB No.:</u>	CUSIP No. 040114GD6; ISIN No. US040114GD65
<u>Date Of Issuance:</u>	None given.
<u>Date Of Maturity:</u>	February 21, 2012
<u>Interest Rate/Payable:</u>	12.375 %
<u>Date Of Purchase:</u>	On or about April 15, 2004.
<u>Acceleration:</u>	Notice sent August 3, 2004.
<u>Contract Documents:</u> (FAA; Indenture; Offering Prospectus; Certificates, etc.)	FAA dated October 19, 1994.
<u>Evidence of Ownership Proffered:</u> (Account Statements; Letters; Notarized Statements, etc.)	- Account statement from Sao Paulo IMI dated April 30, 2005.

Table 5.

<u>Plaintiff Bond Holder or Beneficial Owner:</u>	Oscar Raul Clavijo & Ana Maria Aurora Otero
<u>Face Value:</u>	U.S. \$ 280,000.00
<u>CUSIP No., ISIN No., BB No.:</u>	CUSIP No. 040114AR1; ISIN No. US040114AR16
<u>Date Of Issuance:</u>	January 30, 1997.
<u>Date Of Maturity:</u>	January 30, 2017.
<u>Interest Rate/Payable:</u>	11.375 %
<u>Date Of Purchase:</u>	On or about January 30, 1997.
<u>Acceleration:</u>	Notice sent August 3, 2004.
<u>Contract Documents:</u> (FAA; Indenture; Offering Prospectus; Certificates, etc.)	FAA dated October 19, 1994.
<u>Evidence of Ownership Proffered:</u> (Account Statements; Letters; Notarized Statements, etc.)	- Account statement from Lehman Brothers dated March 31, 2005

Table 6.

<u>Plaintiff Bond Holder or Beneficial Owner:</u>	Oscar Raul Clavijo & Ana Maria Aurora Otero
<u>Face Value:</u>	U.S. \$ 140,000.00
<u>CUSIP No., ISIN No., BB No.:</u>	CUSIP No. 040114GA2; ISIN No. US040114GA27
<u>Date Of Issuance:</u>	None given.
<u>Date Of Maturity:</u>	June 15, 2015
<u>Interest Rate/Payable:</u>	11.75 %
<u>Date Of Purchase:</u>	On or about June 15, 2000.
<u>Acceleration:</u>	Notice sent August 3, 2004.
<u>Contract Documents:</u> (FAA; Indenture; Offering Prospectus; Certificates, etc.)	FAA dated October 19, 1994.
<u>Evidence of Ownership Proffered:</u> (Account Statements; Letters; Notarized Statements, etc.)	- Account statement from Lehman Brothers dated March 31, 2005

Table 7.

<u>Plaintiff Bond Holder or Beneficial Owner:</u>	Oscar Raul Clavijo & Ana Maria Aurora Otero
<u>Face Value:</u>	U.S. \$ 63,000.00
<u>CUSIP No., ISIN No., BB No.:</u>	CUSIP No. 040114GF1; ISIN No. US040114GF14
<u>Date Of Issuance:</u>	December 19, 2001.
<u>Date Of Maturity:</u>	December 19, 2008.
<u>Interest Rate/Payable:</u>	7 %
<u>Date Of Purchase:</u>	On or about June 19, 2001.
<u>Acceleration:</u>	Notice sent August 3, 2004.
<u>Contract Documents:</u> (FAA; Indenture; Offering Prospectus; Certificates, etc.)	FAA dated October 19, 1994.
<u>Evidence of Ownership Proffered:</u> (Account Statements; Letters; Notarized Statements, etc.)	- Account statement from Lehman Brothers dated March 31, 2005

Table 8.

<u>Plaintiff Bond Holder or Beneficial Owner:</u>	Livia Diaz
<u>Face Value:</u>	U.S. \$ 6,000.00
<u>CUSIP No., ISIN No., BB No.:</u>	CUSIP No. 040114AV2; ISIN No. US040114AV28
<u>Date Of Issuance:</u>	None given.
<u>Date Of Maturity:</u>	September 19, 2027
<u>Interest Rate/Payable:</u>	9.75 %
<u>Date Of Purchase:</u>	Between June 29, 1998 and December 21, 1998.
<u>Acceleration:</u>	Notice sent August 3, 2004.
<u>Contract Documents:</u> (FAA; Indenture; Offering Prospectus; Certificates, etc.)	FAA dated October 19, 1994.
<u>Evidence of Ownership Proffered:</u> (Account Statements; Letters; Notarized Statements, etc.)	- Certification from Caja de Valores dated May 19, 2005.

Table 9.

<u>Plaintiff Bond Holder or Beneficial Owner:</u>	Livia Diaz
<u>Face Value:</u>	U.S. \$ 27,000.00
<u>CUSIP No., ISIN No., BB No.:</u>	CUSIP No. 040114AR1; ISIN No. US040114AR16
<u>Date Of Issuance:</u>	January 30, 1997.
<u>Date Of Maturity:</u>	January 30, 2017.
<u>Interest Rate/Payable:</u>	11.375 %
<u>Date Of Purchase:</u>	Between July 7, 2000 and September 12, 2000.
<u>Acceleration:</u>	Notice sent August 3, 2004.
<u>Contract Documents:</u> (FAA; Indenture; Offering Prospectus; Certificates, etc.)	FAA dated October 19, 1994.
<u>Evidence of Ownership Proffered:</u> (Account Statements; Letters; Notarized Statements, etc.)	- Certification from Caja de Valores dated May 19, 2005.

Table 10.

<u>Plaintiff Bond Holder or Beneficial Owner:</u>	Livia Diaz
<u>Face Value:</u>	U.S. \$ 42,000.00
<u>CUSIP No., ISIN No., BB No.:</u>	CUSIP No. 040114GA2; ISIN No. US040114GA27
<u>Date Of Issuance:</u>	None given.
<u>Date Of Maturity:</u>	June 15, 2015
<u>Interest Rate/Payable:</u>	11.75 %
<u>Date Of Purchase:</u>	Between August 4, 2000 and October 11, 2000.
<u>Acceleration:</u>	Notice sent August 3, 2004.
<u>Contract Documents:</u> (FAA; Indenture; Offering Prospectus; Certificates, etc.)	FAA dated October 19, 1994.
<u>Evidence of Ownership Proffered:</u> (Account Statements; Letters; Notarized Statements, etc.)	- Certification from Caja de Valores dated May 19, 2005.

Table 11.

<u>Plaintiff Bond Holder or Beneficial Owner:</u>	Pedro Kalbermann, Evan Sondermann & Pablo Kalbermann
<u>Face Value:</u>	U.S. \$ 1,000,000.00 <sup>2</sup>
<u>CUSIP No., ISIN No., BB No.:</u>	CUSIP No. 040114GD6; ISIN No. US040114GD65
<u>Date Of Issuance:</u>	None given.
<u>Date Of Maturity:</u>	February 21, 2012
<u>Interest Rate/Payable:</u>	12.375 %
<u>Date Of Purchase:</u>	On or about April 15, 2004.
<u>Acceleration:</u>	Notice sent August 3, 2004.
<u>Contract Documents:</u> (FAA; Indenture; Offering Prospectus; Certificates, etc.)	FAA dated October 19, 1994.
<u>Evidence of Ownership Proffered:</u> (Account Statements; Letters; Notarized Statements, etc.)	- Account statement from Wachovia Securities dated May 31, 2005.

<sup>2</sup> The Republic has noted that the Kalbermanns have sought judgment on the beneficial interests in the same series of bonds in *Applestein v. Republic of Argentina*, 02 Civ. 4124, and *Morata v. Republic of Argentina*, 04 Civ. 3314. Nonetheless, the Kalbermanns have provided an account statement indicating that the beneficial interests in this series of bonds were purchased on several occasions, in amounts matching the claims in this matter and the *Applestein* and *Morata* matters. As such, the court is satisfied that the Kalbermanns have not sought relief on the same beneficial interests in multiple cases.

Table 12.

<u>Plaintiff Bond Holder or Beneficial Owner:</u>	Nelson Dante Luciano, Dante Luciano, David Adrian Luciano & Mercedes Feliu
<u>Face Value:</u>	U.S. \$ 53,000.00
<u>CUSIP No., ISIN No., BB No.:</u>	CUSIP No. 040114AN0; ISIN No. US040114AN02
<u>Date Of Issuance:</u>	September 10, 1996.
<u>Date Of Maturity:</u>	September 10, 2006.
<u>Interest Rate/Payable:</u>	11 %
<u>Date Of Purchase:</u>	On or about October 18, 2000 and April 18, 2001.
<u>Acceleration:</u>	Notice sent August 3, 2004.
<u>Contract Documents:</u> (FAA; Indenture; Offering Prospectus; Certificates, etc.)	FAA dated October 19, 1994.
<u>Evidence of Ownership Proffered:</u> (Account Statements; Letters; Notarized Statements, etc.)	- Certification from Caja de Valores dated April 29, 2005.

Table 13.

<u>Plaintiff Bond Holder or Beneficial Owner:</u>	Nelson Dante Luciano, Dante Luciano, David Adrian Luciano & Mercedes Feliu
<u>Face Value:</u>	U.S. \$ 31,000.00
<u>CUSIP No., ISIN No., BB No.:</u>	CUSIP No. 040114GD6; ISIN No. US040114GD65
<u>Date Of Issuance:</u>	None given.
<u>Date Of Maturity:</u>	February 21, 2012
<u>Interest Rate/Payable:</u>	12.375 %
<u>Date Of Purchase:</u>	On or about March 15, 2000.
<u>Acceleration:</u>	Notice sent August 3, 2004.
<u>Contract Documents:</u> (FAA; Indenture; Offering Prospectus; Certificates, etc.)	FAA dated October 19, 1994.
<u>Evidence of Ownership Proffered:</u> (Account Statements; Letters; Notarized Statements, etc.)	- Certification from Caja de Valores dated April 29, 2005.

Table 14.

<u>Plaintiff Bond Holder or Beneficial Owner:</u>	Salvatore Melchionda
<u>Face Value:</u>	U.S. \$ 100,000.00
<u>CUSIP No., ISIN No., BB No.:</u>	CUSIP No. 040114GD6; ISIN No. US040114GD65
<u>Date Of Issuance:</u>	None given.
<u>Date Of Maturity:</u>	February 21, 2012
<u>Interest Rate/Payable:</u>	12.375 %
<u>Date Of Purchase:</u>	On or about April 7, 2004.
<u>Acceleration:</u>	Notice sent on August 3, 2004.
<u>Contract Documents:</u> (FAA; Indenture; Offering Prospectus; Certificates, etc.)	FAA dated October 19, 1994.
<u>Evidence of Ownership Proffered:</u> (Account Statements; Letters; Notarized Statements, etc.)	- Account statement from Banca Antonveneta dated March 31, 2005.

Table 15.

<u>Plaintiff Bond Holder or Beneficial Owner:</u>	Franco Pezze
<u>Face Value:</u>	EURO 70,000.00
<u>CUSIP No., ISIN No., BB No.:</u>	ISIN No. XS0113550213
<u>Date Of Issuance:</u>	Not provided
<u>Date Of Maturity:</u>	July 5, 2004.
<u>Interest Rate/Payable:</u>	10 %
<u>Date Of Purchase:</u>	On or about June 2000.
<u>Acceleration:</u>	Not provided.
<u>Contract Documents:</u> (FAA; Indenture; Offering Prospectus; Certificates, etc.)	Indenture dated July 8, 1998.
<u>Evidence of Ownership Proffered:</u> (Account Statements; Letters; Notarized Statements, etc.)	- Account statement from Credito Artigiano S.p.A. dated March 16, 2005.

Table 16.

<u>Plaintiff Bond Holder or Beneficial Owner:</u>	Tiziano Sasselli & Giovanna Ferro
<u>Face Value:</u>	U.S. \$ 345,000.00
<u>CUSIP No., ISIN No., BB No.:</u>	CUSIP No. 040114BE9; ISIN No. US040114BE93
<u>Date Of Issuance:</u>	April 7, 1999.
<u>Date Of Maturity:</u>	April 7, 2009.
<u>Interest Rate/Payable:</u>	11.75 %
<u>Date Of Purchase:</u>	On or about April 15, 2004.
<u>Acceleration:</u>	Notice sent August 3, 2004.
<u>Contract Documents:</u> (FAA; Indenture; Offering Prospectus; Certificates, etc.)	FAA dated October 19, 1994.
<u>Evidence of Ownership Proffered:</u> (Account Statements; Letters; Notarized Statements, etc.)	- Account Statement from UniCredit Banca dated January 3, 2005.

Table 17.

<u>Plaintiff Bond Holder or Beneficial Owner:</u>	Tiziano Sasselli & Giovanna Ferro
<u>Face Value:</u>	U.S. \$ 255,000.00
<u>CUSIP No., ISIN No., BB No.:</u>	CUSIP No. 040114AN0; ISIN No. US040114AN02
<u>Date Of Issuance:</u>	September 10, 1996.
<u>Date Of Maturity:</u>	September 10, 2006.
<u>Interest Rate/Payable:</u>	11 %
<u>Date Of Purchase:</u>	On or about April 15, 2004.
<u>Acceleration:</u>	Notice sent August 3, 2004.
<u>Contract Documents:</u> (FAA; Indenture; Offering Prospectus; Certificates, etc.)	FAA dated October 19, 1994.
<u>Evidence of Ownership Proffered:</u> (Account Statements; Letters; Notarized Statements, etc.)	- Account Statement from UniCredit Banca dated January 3, 2005.

## DISCUSSION

This Court has already granted summary judgment in other cases to plaintiffs seeking to collect on the Republic's defaulted bonds issued under the 1994 FAA and the 1998 Indenture. This has occurred in Lightwater, supra, Applestein, supra, and other cases. Only certain specific issues need to be discussed in connection with the present motion.

### Standing and Proof of Ownership

In the two opinions in Fontana v. Republic of Argentina, 415 F.3d 238 (2d Cir. 2005), and Applestein v. Province of Buenos Aires, 415 F.3d 242 (2d Cir. 2005), the Second Circuit has held that an owner of a beneficial interest, such as plaintiffs here, must receive authorization from the registered holder of the bond before it may sue, but that such authorization may be granted subsequent to the filing of a lawsuit. Alternatively, the Republic may waive the authorization requirement.

The Republic has agreed to waive objections based on lack of authorization where the court makes a finding of current ownership. See Transcript, March 28, 2006, Cilli v. Republic of Argentina (04 Civ. 6594).

Here, plaintiffs have adequately demonstrated through their account statements that owned the beneficial interests as of various dates in 2005. There is no evidence of any change of ownership thereafter.

## CONCLUSION

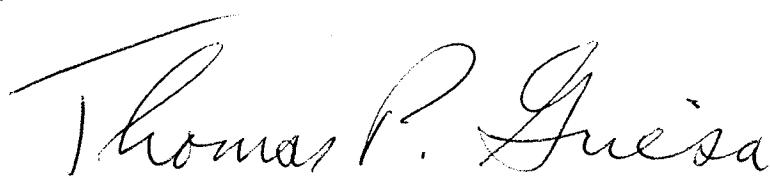
The motion to strike defendant's discovery requests is granted.

The motions for summary judgment are granted. Judgment will be entered for the principal amount of the bonds issued under the 1994 FAA plus accrued interest. With respect to the bonds issued under the 1998 Indenture, judgment will be entered for any payments on those bonds that are due and unpaid as of the time of judgment.

The parties shall consult with one another concerning the form of the judgment and the amounts of interest that should be awarded in the judgment. If the parties are unable to reach agreement on those subjects, they shall jointly submit an agreed proposed judgment to the court. If the Republic and any plaintiff are unable to reach agreement on those subjects, that plaintiff shall submit a proposed judgment to the court, and the Republic shall submit any objections to that plaintiff's proposed judgment within five business days thereafter. The court will then resolve any remaining disagreements.

SO ORDERED.

Dated: New York, New York  
May 4, 2006



THOMAS P. GRIESA  
U.S.D.J.